

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cr-00091-JPH-DML
)	
MICHAEL GRAHAM,)	-03
)	
Defendant.)	

ORDER

Defendant filed a pro se motion that the Court construed as a motion for compassionate release under the First Step Act of 2018. Dkt. 204. CJA counsel appeared on Defendant's behalf, dkt. 207, but then withdrew, dkt. 221, 223. Accordingly, Defendant is now pursuing his motion pro se.

On June 25, 2020, the Court also directed the parties to file notices addressing whether Defendant has exhausted his administrative remedies. Dkt. 214. On July 15, 2020, the Court directed Defendant to file an updated notice within 45 days. Dkt. 220. After counsel withdrew, the Court extended the deadline for Defendant to provide an updated notice concerning exhaustion of administrative remedies. Dkt. 224. On August 26, 2020, the Court informed Defendant that, on or before October 7, 2020, he must file a notice addressing the issue. *Id.*

On September 14, 2020, Defendant filed an affidavit. Dkt. 227. The affidavit provides some information in support of Defendant's motion for compassionate release but does not provide any information about whether Defendant has exhausted his administrative remedies and does not provide the specific information required by the August 26 Order. *Id.* On September 21, 2020, the United States filed a notice contending that Defendant has not demonstrated that he has exhausted

administrative remedies and stating that it will not waive the exhaustion requirement in this case. Dkt. 228.

It is unclear if Defendant intended his recently-filed affidavit to be responsive to the Court's August 26 Order. To the extent he did, the affidavit does not provide the information required by the August 26 Order or demonstrate that Defendant has exhausted his administrative remedies. Accordingly, the Court will provide Defendant one additional chance to provide evidence that he has exhausted his administrative remedies. It is ORDERED that, on or before **October 26, 2020**, Defendant shall file a notice stating whether he has requested compassionate release from his warden and, if so, the date of his request. If he has made a request to his warden, he should state whether he received a response and the date of any response. If Defendant can obtain copies of his request to his warden and the response to that request, he should include those copies with his notice. If he cannot obtain those copies, he should explain why in his notice and describe the contents of the request and any response. Within 7 days after Defendant files his notice, the United States shall file a notice stating its position as to exhaustion of administrative remedies in this case.

If Defendant does not timely file the notice as directed above or fails to provide sufficient information to conclude that he has exhausted his administrative remedies, Defendant's motion for compassionate release may be denied without further notice.

SO ORDERED.

Date: 9/22/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

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